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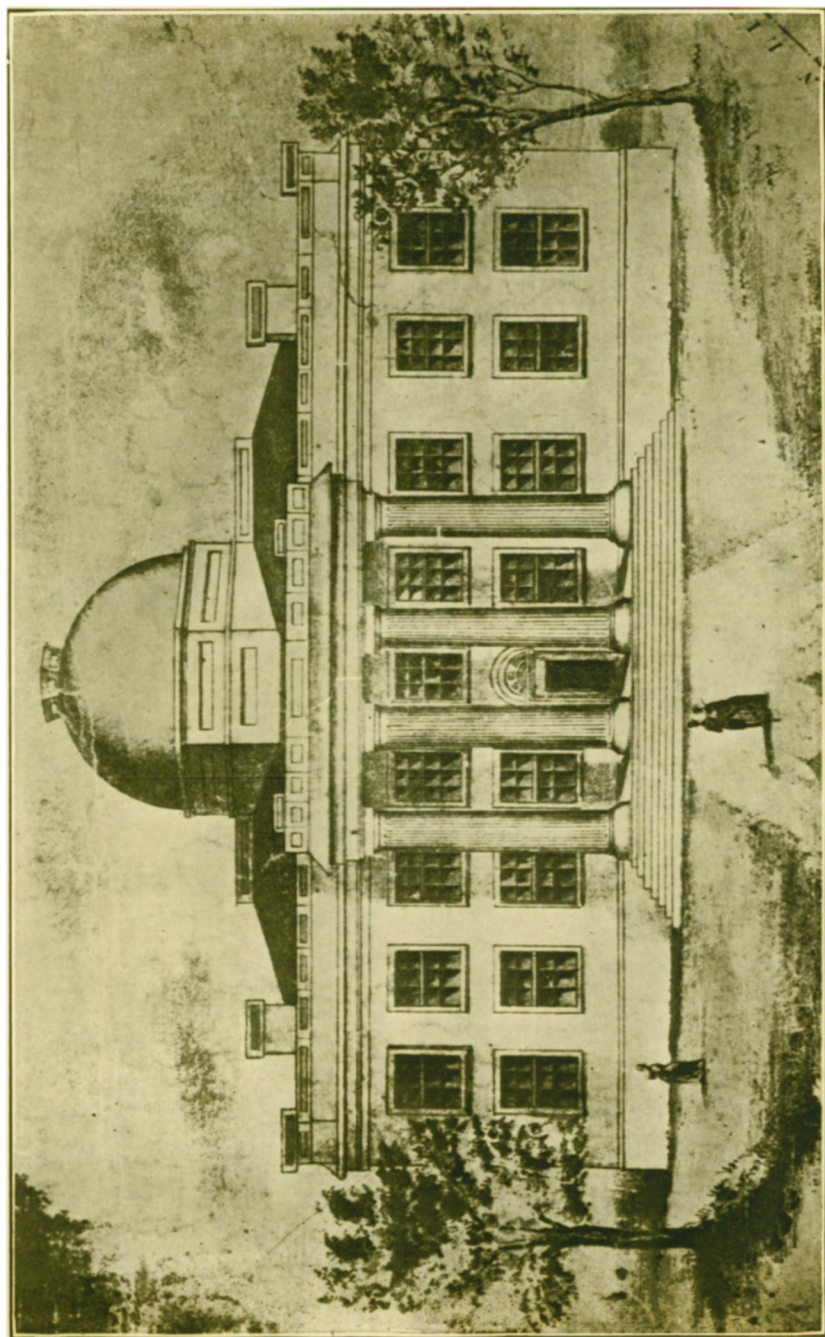
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THE FIRST CAPITOL AT MADISON, 1838

# THE STORY OF WISCONSIN, 1634-1848

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## CHAPTER VI—POLITICS AND STATEHOOD

### TERRITORIAL POLITICS

Political action in early Wisconsin centered around the choice of the Congressional delegate, the one office connecting the territory with the federal government. George Wallace Jones, the first delegate, was elected from that portion of the territory of Michigan west of Lake Michigan when it was apparent that its admission as a state was near at hand. He took his seat as Michigan's delegate; upon its admission as a state, Jones continued to represent Wisconsin until the expiration of his term in 1838. His stand for reelection precipitated the first canvass in the new territory. Jones's record was good and he was immensely popular in the mining district of the southwest. He had, however, been a second in the famous Graves-Cilley duel, an action which awoke conscientious scruples in the minds of the New England element of the territory's population. Taking advantage of this sentiment, the friends of James D. Doty in August, 1838 called a convention at Madison and put him in nomination for the office, to which after an exciting canvass he was elected. Doty had to stand again for election in 1839; this time two conventions, both calling themselves Democratic, met at Madison in June. At one of these Byron Kilbourn was nominated; at the other, Doty, who was in September following reelected for the term of two years.

Thus far all parties had called themselves Democratic, and the national alignment had not affected the territory. Such divisions as existed were sectional and personal rather than political. In 1840, however, Wisconsin, although with-

out the presidential vote, was much influenced by the national campaign. As a result of Harrison's triumph the first Whig convention was held in January, 1841 at Milwaukee. It was expected that all the appointive offices in the territory would become the spoils of the victorious party; the Whigs, who were in a minority in the territory, now became an organized party; Doty, who had previously called himself a Democrat, allied himself actively with the Harrison machine. During the campaign he published at New York the *Voice of an Injured Territory*, in which, imitating the phraseology of the Declaration of Independence, Van Buren's policy and appointees in "Wiskonsan" (as Doty always termed the territory) were vigorously arraigned. This pamphlet was received with jeers of amusement among the people who were supposed to be "injured"; Doty's claim upon the administration, however, was acknowledged by his appointment as governor to succeed Henry Dodge, the Black Hawk War veteran. The entire official personnel, except the life-term judges, was changed. This overturn alienated the major portion of the territorial voters. A close Democratic organization was effected, which in convention at Madison, July 19, 1841, nominated the deposed Dodge for territorial delegate. The Whigs put up Jonathan Arnold, an able Milwaukee lawyer, but Dodge's popularity stood the test and he was triumphantly elected to Congress.

Meanwhile Governor Doty was coldly received by the majority of Wisconsin people. His administration was marked by constant dissensions with the legislature, which in the second year of his administration nearly unanimously demanded his removal. His quarrel with the legislature was, in great part, due to attempts to avoid investigation into his connection with the building of the first capitol. By this effort and by arbitrary appointments and acts of nepotism and favoritism he exasperated and embittered the entire three years of his administration.

Notwithstanding his great unpopularity and the serious charges of corruption urged against him, Doty was not removed from his office by the federal government. In 1843, while the feeling against Doty was at its height, Dodge was a candidate for reelection to the delegacy; he swept the whole territory, defeating the Whig nominee, George H. Hickcox, by a great majority. Although the popular will was clearly expressed in this election, President Tyler, upon the expiration of Doty's term in September, 1844, appointed in his stead Nathaniel P. Tallmadge, United States senator from New York. Tallmadge was one of the best known political characters of the United States and had narrowly escaped becoming president. Having broken with Van Buren on the subtreasury measure, Tallmadge was offered the nomination for vice president on the ticket with Harrison but preferred to remain in the Senate as chairman of the committee on foreign relations. It was rumored that he had also been offered a cabinet position and a foreign mission and had declined both. Tallmadge made the acquaintance of Doty while the latter was Wisconsin's delegate and lured by his perfervid description of Wisconsin Territory came West and bought a large estate at Taycheedah, whither he proposed to remove his residence. Since his senatorial term expired with the Twenty-eighth Congress, he accepted the president's nomination as governor for the territory and arrived at Milwaukee the last of August, 1844. As the friend and nominee of the Doty party and as a stranger in the West Tallmadge was not received with great cordiality; his first message to the legislature as well as his past political record was the subject of much acrimonious comment. The message, however, in its recommendations for internal improvements and transportation facilities was a statesmanlike document, and the new governor's determination to take no partisan position on past conflicts soon cooled the heat of the opposition to his measures.

Tallmadge's administration was very brief because of the change in 1845 in the administration of the national government; but it was more than a mere episode in territorial politics. His skill, experience, address, and wide outlook were valuable to the progress of the new territory.

His successor, appointed by President Polk at the urgent request of the people of the territory, was their favorite, Henry Dodge, who thus became the last, as he had been the first, territorial governor. Dodge's successor as delegate was Morgan L. Martin of Green Bay, one of the earliest and ablest American pioneers of Wisconsin. Martin used his influence to secure a federal appropriation for the Fox-Wisconsin Improvement work. He also urged upon the Twenty-ninth Congress the claims of Wisconsin to statehood. Because of these and other services Martin and his friends considered that he was entitled to a second term as Congressional delegate. But the clamor for office on the part of ambitious politicians led to his defeat in the Democratic convention held at Madison July 21, 1847. The coveted nomination was secured by Moses M. Strong of Mineral Point. The Whigs put up John H. Tweedy of Milwaukee as their candidate, while the growing Liberty party nominated Charles Durkee of Kenosha. The campaign was the most vigorous and the most extensive made during the territorial period. The issues were complicated: personal, since Tweedy was the more correct in private character, and Strong had many enemies within his own party; sectional, since Tweedy represented the eastern and Strong the western portion of the state; territorial, since after the defeat of the first state constitution Strong represented its partisans and Tweedy its opponents; and national, since the complicated interaction of Whig, Democratic, and Liberty parties, increased by the tension over the Wilmot Proviso, was reflected in local affairs. Strong took the stump and made speeches throughout the territory; the Liberty candidate was also aggressive and convincing. Tweedy, although he did not speak and expected

to be defeated, was elected by a considerable plurality; he took his seat in the Thirtieth Congress as the last territorial delegate from Wisconsin.

During the territorial period the community was organized politically; parties were formed, newspapers were established, and machinery was set in motion. The tone of territorial politics was acrimonious and personal. Charges of the most disgraceful conduct were freely bandied about; personalities were the current topics of the territorial press, and bitter reprisals the usual political methods. None the less, as within a large family, while there was much wrangling, there was also much good-fellowship. Considering the low political morals engendered by the spoils system, and the depressed condition of national politics, the Wisconsin candidates for and holders of office were above the average in ability and character. Most of them were men still young and vigorous, many of whom had had political experience in older communities. A very large proportion were lawyers possessed of considerable education and statesmanlike acumen. One and all were imbued with a deep enthusiasm for Wisconsin, a belief in its future greatness, and a desire to serve in the progress and upbuilding of the new commonwealth.

#### ATTAINMENT OF STATE GOVERNMENT

Like all territories Wisconsin had aspirations toward statehood, complicated, however, in this instance by the question of boundaries. The last of the states to be formed from the Northwest Territory, both Michigan and Illinois had encroached upon the territory originally allotted to the fifth state by the Ordinance of 1787. It was the southern boundary question, however, that was chiefly involved in the process of attaining statehood. Notwithstanding the fact that for more than twenty years Illinois had exercised jurisdiction over the disputed tract, Wisconsin's claims received much considera-

tion among its inhabitants and influenced the progress of the territory towards the goal of admission.

In his annual message for 1839 Governor Dodge recommended the legislature to consider the submission of the question of statehood to the people at the next election. On January 13, 1840 an act was passed in accordance with this recommendation containing the proviso that a convention should be held with delegates from northern Illinois to discuss the inclusion of their territory in the proposed new state. Only by such a proceeding would there be a sufficient population to justify application to Congress for admission. Agitation quickly sprang up in the Illinois counties, and the majority of their people were eager to cast in their lot with that of the northern territory. Public meetings held at Galena and Rockford passed strong resolutions favoring the measure. Wisconsin people, on the contrary, took alarm at the proposal. Illinois was burdened with a heavy debt, and the portion that must be assumed by the region desiring inclusion in Wisconsin staggered the financiers of the territory. Politicians were also fearful that their share of the offices would be diminished by the inclusion in the new state of a developed and thickly-populated region like northern Illinois. A meeting for Brown County held at Green Bay passed forcible resolutions against both statehood and the inclusion of any portion of Illinois. Wisconsin's meager population was unprepared on its own part to assume the liabilities of a state government. Therefore at a special session of the legislature held in August, 1840 the act of the preceding January was amended by a resolution that the convention therein authorized should not have the power to adopt a state constitution nor to declare the territory an independent state. The territorial press opposed the calling of the convention, urging the people to be contented with their fortunate situation wherein all expenses of territorial government were met, not by taxes, but by the federal authorities. The September vote was, as may be supposed, very small and almost wholly against



the proposition for a convention or for statehood. In Dane County, for instance, but one vote was cast in favor of the proposal.

This decisive defeat put a quietus upon the statehood movement for the next two years. Meanwhile the Whig party succeeded in 1841 to the control of the federal government, and one of its first measures was a law for the distribution to the states of the proceeds of the public lands. The territorial Whig press thereupon began an agitation for statehood in order to participate in the benefits of the distribution. Governor Doty, the Whig appointee, had been for many years an enthusiastic advocate of Wisconsin's "original boundaries." In his first annual message in December, 1841 he advised the consideration of statehood in order to secure the advantage of the distribution law. At the same time he called upon the legislature to assert the territory's right to the region of northern Illinois. The legislature, under control of the Democratic party, was bitterly hostile to the governor. The leader of the Council attacked the entire proposition in a partisan speech and a resolution was passed that "the time has not yet arrived when it [the consideration of statehood] is expedient." The Whigs thereupon called a meeting at the capitol that discussed the matter favorably and passed resolutions for a state government with the boundaries of the Ordinance of 1787. The legislature, none the less, refused to consider the subject, and the discussion went to the people. Most of the newspapers of the territory, then numbering nine, came out in opposition to statehood; about this time, however, the Doty party secured possession of the Wisconsin *Enquirer* at Madison, which began a series of editorials favoring the state project. Doty even went so far as to send an official message to Governor Carlin of Illinois requiring him to desist from selecting state lands in the disputed Illinois tract. Doty's opponents claimed that he feared removal by the federal government and was providing a berth for himself in the new state government he planned to establish. Be that

as it may, on August 18, 1842 he issued a proclamation wherein without legislative sanction he summoned the people to vote at the September election "yea" or "nay" on the question of state government and the original southern boundary. The Democratic convention of the territory condemned this measure as executive usurpation. The vote at the September election was negligible, the 619 votes for and the 1,821 against proving indifference rather than active hostility to the attainment of statehood.

The next year Doty was still more deeply embroiled with the Democratic majority of the territorial legislature. Nevertheless in his message, delivered in March 1843, he reverted to the proposition for a referendum on statehood. The legislature refused to consider the question, but some of the members suggested the advisability of such a movement in order "to shake off Doty's tyranny."

A new cleavage of opinion appeared about this time. The southern counties bordering on Illinois began to favor immediate statehood. Racine, for example, fast filling up and establishing commercial connections with the northern Illinois villages, adopted a memorial favoring a movement toward statehood and the inclusion of northern Illinois. The northern Wisconsin counties, however, were still oppressed by the dread of being overpowered by the south in the event of annexation. The Green Bay *Republican*, although a Whig organ, declared that "Few, very few, can be found in favor of our admission to the Union at this time." Meanwhile the Whig convention, which met in July, discussed the advantages of a state government and recommended the measure to its constituents. Doty, following his precedent of the preceding year, issued August 23, 1843 a second proclamation charging the legislature with negligence in not providing for a referendum on statehood and claiming a territorial population of over sixty thousand inhabitants. These he once more summoned to vote on the question of a state government, but

omitted all reference to the inclusion of Illinois. The vote was again very small and except in Racine County was adverse to the measure. That county gave a majority of 251 in favor; the entire vote was 541 for, and 1,276 against; less in actual numbers than that of the preceding year. Ten counties, however, made no returns at all.

Nothing daunted by this serious setback Doty returned to the proposal at the December session of the legislature of 1843. Almost his entire message was devoted to a discussion of the importance of statehood, and the righteousness of Wisconsin's claim to "the integrity of her territorial boundaries" and her ancient "birthright." The *Milwaukee Courier* referred to the message as "the same old tune on the same old string," but none the less new forces were at work which compelled the consideration of the question and removed it from the domain of party prejudice. The growing size of the population could no longer be ignored. All parties agreed that the requisite 60,000 inhabitants would be available before the territory could become a sovereign state. The approach of a presidential campaign made the politicians restive in a state of "babyhood and political vassalage." The large foreign population desired to secure the political privileges they had come so far to seek, all the more that the Native American or Know Nothing party was advocating their exclusion from the polls. The advantages of statehood in stimulating immigration and the influx of capital were held by many to outweigh the advantages of federal care for the territory.

A remarkable change in sentiment animated the legislature of 1843-44: the Democratic leaders who had stoutly opposed the measure in 1842 and 1843 now spoke enthusiastically not only for state government, but for the maintenance of the ancient limits. In the Council Moses M. Strong, chairman of the committee on the "infringement of boundaries," presented a long report covering the history of Wisconsin's grievances. He declared that if these were not compensated

Wisconsin “would remain *a state out of the Union and possess, exercise, and enjoy all the rights, privileges, and powers of the sovereign, independent state of Wisconsin*, and if difficulties must ensue, we could appeal with confidence to the Great Umpire of nations to adjust them.” The Democratic volte-face was due to a desire to conciliate the foreign vote, which the Whigs were alienating by a leaning towards Native Americanism. About the time the Council report was delivered a large German mass meeting was held in Milwaukee, which passed resolutions in favor of state government and prepared a petition which secured 1,200 signatures for the right to vote for delegates to a constitutional convention. In January, 1844 two bills passed the legislature: one provided for a referendum on the subject of state government and, if it carried, for the immediate calling of a constitutional convention; the other provided that “all the free white male inhabitants \* \* \* who shall have resided in the said territory three months” should be entitled to vote on the question of statehood and for delegates to a constitutional convention. The legislature also prepared a memorial to Congress reciting the wrongs the territory had endured by the infringement of its boundaries at the admission of Illinois and Michigan, and under the Webster-Ashburton Treaty wherein (it was claimed) 10,000 square miles of territory belonging to the fifth state of the Old Northwest had been surrendered to the British government. So belligerent was the tone of this document that one representative remarked it ought to be entitled “A declaration of war against Great Britain, Illinois, Michigan and the United States.” The memorial concluded by agreeing to accept compensation from Congress in the form of desirable internal improvements such as harbors, canals, and a railway. It seems at the present time impossible that a document, which one of its advocates admitted would arouse in Congress nothing but a smile, could have seriously occupied the attention of the territorial legislature. Nevertheless the

memorial was passed by both houses and presented by the territorial delegate to the House of Representatives, where it was speedily suppressed in the Committee on Territories.

Had the vote on the subject of immediate preparation for statehood occurred in April, 1844 it probably would have carried, and Wisconsin might have entered the Union before her western neighbor, Iowa. Both the Democratic and Whig press favored the measure; the foreign population was eager to exercise its rights; and the Liberty party element desired additional northern members in both houses of Congress. In the territorial press much attention was devoted to the subject. The chief objections offered were constitutional and economic. Some of the legal minds of the community contended that a state could not be formed without the concurrent action of Congress and that it was wiser to wait until an enabling act could be secured to place Wisconsin on a proper footing. The financial obligations of a state were much discussed, and the belief was freely expressed that the necessary taxation would prove a heavy burden to the young community, all the more that the distribution act had been suspended. Local considerations influenced other voters. The southwest was hostile to political privileges for foreigners, since these would give preponderance to the lakeboard counties. The new settlements on the upper Mississippi and the St. Croix desired delay until a new territory could be formed for their region. By midsummer of 1844 interest in statehood had so waned that the matter was seldom mentioned in the press, whose columns were filled with the excitement of the presidential campaign. The retirement of Governor Doty removed the executive support of the measure. The Democratic press repudiated the agency of their party in its favor and declared that the executive junta had forced them to submit the measure to the people. Rejection was anticipated, and at the September election only 1,503 votes were recorded in favor to 5,343 against adopting a state government. Thus the

fourth attempt to secure a referendum vote in favor of statehood for Wisconsin failed. Governor Tallmadge in his message to the legislature of 1845 accepted the decision of the people as putting the matter at rest for the time being, and the project was not revived until 1846.

In the meantime political conditions had been reversed. The Democratic party had secured possession of the entire territorial government. During the summer and autumn of 1845 the press continually agitated for a new referendum. Two causes operated to change public opinion: one was the growing population, which was believed to be twice the prescribed 60,000; the other was the penurious policy of Congress concerning territorial appropriations. In May, 1845 the Madison *Argus* declared that Congress was trying to drive the territory into a state government. A lesser influence was dissatisfaction with the territorial judiciary and a desire to control the choice of judges. By 1845 the question transcended party differences. The Wisconsin *Republican* stated that, whichever party succeeded at the fall election, statehood would become an immediate issue. Scores and hundreds of the inhabitants were ready to change their vote from the negative to the affirmative.

Such differences of opinion as existed were concerned with the method of attaining the desired goal. Some of the more aggressive papers suggested that the time had come to form a state government and present its claims to Congress. "We need not," said the Madison *Express*, "stand like Iowa hat in hand, we may go and demand admission not as a favor but as a right." More moderate counsels opposed action without Congressional consent. The northern part of the territory preferred the slower or Congressional method; the southern part desired immediate action by territorial authority.

As the event proved, both methods were simultaneously employed. On January 9, 1846 Morgan L. Martin, terri-

torial delegate, obtained leave to introduce into the House of Representatives an enabling act for Wisconsin. This was referred to the Committee on Territories, and in June reported by Stephen A. Douglas and passed. The Senate concurred, and on August 6 the bill was signed by the president. In the meantime Governor Dodge in his January message of 1846 recommended to the legislature a statehood referendum. That body favored the measure and advised taking advantage of the federal situation. Florida and Texas had both been admitted since any northern territory had entered the Union. Iowa and Wisconsin were expected to restore the sectional balance in the Senate. The chief question was still one of boundaries. The idea of laying claim to northern Illinois had been dropped, but as Texas was intended to be divided into several slave states, the problem was to secure as many northern states as possible. It was contended that three states should be formed of the territory north and west of Wisconsin and Iowa, east of Red River of the North. This would denude Wisconsin of a large part of her northwestern region. The legislature in April passed an act for the referendum without adverting to the subject of boundaries. The benefit of a state government was the theme of the legislative speeches; control over finances, over school and university lands, over the judiciary, and the advantages of independency were the considerations urged. The chief party difference was with regard to the foreign vote, the qualifications for which had been amended in the preceding legislature by the requirement of a six months' residence and a declaration of intended citizenship. The Whigs wished to repeal these liberal provisions and reduce the foreign vote to a minimum, but the Democrats stood firm for the six months' clause, and the referendum bill contained the provision as it already existed.

After the adjournment of the legislature it was evident that the statehood proposition would be accepted. All par-

ties agreed that the territory would be the gainer by this measure. The vote was 12,334 in favor; 2,487 in opposition. On August 1 Governor Dodge apportioned the territory for delegates to a convention to prepare a constitution. All political parties nominated candidates and much interest was taken in their election, which took place on September 7. One hundred twenty-five delegates were chosen, most of them of the Democratic faith. The Whig members were few, but their influence was important because of their talents and ability. The entire convention was composed of the ablest leaders of opinion in the territory. Organization was effected October 5, by the choice of D. A. J. Upham of Milwaukee for chairman, and Lafayette Kellogg of Madison as secretary.

The convention was in session ten weeks and two days, adjourning on December 16. The constitution it prepared for the consideration of the people was radical and democratic. Its chief model was the constitution and political practice of New York; but independence of thought and readiness to experiment were marked characteristics of the convention. The principal innovations were the banking provisions forbidding all banks of issue; the judiciary arrangements for an elective system and the *nisi prius* method of state courts; the property rights of married women and the exemption of the homestead from the creditor's claim upon the debtor. The question of negro suffrage was left for a special referendum, when the constitution's acceptance should be determined.

During the convention personal and party differences caused much friction. One of the leading members resigned in dissatisfaction before the close of the session. The president in his closing speech apologized for the lack of harmony and hoped the constituents would consider the difficulties under which the convention had labored. Several of its members went away with the avowed purpose of defeating the



constitution at the polls. Petitions were presented to the January legislature of 1847, urging the calling of another convention in case the constitution should be rejected. During the discussion of this measure strong speeches were made in opposition to adopting the constitution.

The opponents of the instrument were of no one party, but the Whigs as representatives of the moneyed and business class disapproved of the banking and exemption clauses. Ex-Governor Tallmadge was considered the commander-in-chief of the anticonstitutional forces. The Liberty men opposed ratification because negro suffrage was not embodied in the instrument. One faction of the Democrats opposed, apparently because the other faction approved. The entire territory was divided into pro- and anticonstitution groups. The banking clause and the married women's property and exemption clauses raised a storm of opposition. The people were influenced by the impassioned oratory of the leaders. Mass meetings were held by both the "Friends of the Constitution" and the "Anti-Constitution" groups. Songs were written, liberty poles erected, and the populace was stirred to the pitch where blows succeeded words as arguments. Most of the voters had slight understanding of the radical propositions embodied in the constitution, but influenced by party leaders the majority went to the polls April 6, 1847 prejudiced against the instrument and defeated its adoption by a vote of 14,119 for, and 20,233 against.

Before the constitution had been defeated strong influences had been at work to prepare the way for a second convention should the result of the first be rejected. The territorial press agitated for a special legislative session; petitions bearing many signatures requested immediate action. It was much desired that a constitution should be drawn in time to permit Wisconsin to take part in the presidential campaign of 1848. Accordingly on September 27, 1847 Governor Dodge issued a call for an extra session of the

legislature which took place October 18-27. Its sole business was to arrange for a new constitutional convention, and the only difficulty was the apportionment of members. A strong desire was evinced for a smaller convention, so that the number of delegates was finally fixed at sixty-nine, and the date for assembling December 15. These measures met with general approval; nominations were quickly made, and the election of delegates occurred on November 29. A few of the local nominating conventions instructed their delegates; in others candidates were closely questioned on the subjects of banking, married women's rights, and exemptions. Few of the first convention members were nominated a second time. The choice resulted in a larger proportion of Whigs, twenty-three of that party being chosen to forty-six Democrats. The convention organized with the election of Morgan L. Martin chairman and Thomas M. McHugh secretary. A new constitution was prepared with some measure of unanimity. The fundamental law was made to rest on general principles, while most of the disputed features of the earlier constitution were omitted. The elective judiciary was retained, exemptions and married women's property rights were left to later legislation, a harmless banking privilege was incorporated.

The convention finished its labors on February 1, and the popular election was set for March 13. The Liberty party was the only opposition element in the territory. All the press advocated the adoption of the new constitution. One of the members of the first convention attempted to secure from the legislature the right for the people to vote for the first constitution as well as for the second, but he was unsuccessful. The election on March 13 gave 16,417 votes in favor of the constitution and 6,174 against it. On April 10 the Governor issued a proclamation declaring the result, and on May 29, 1848 Congress formally admitted Wisconsin to the Union. The constitution adopted in 1848 has stood the test of time and still serves as the fundamental law of the state of Wisconsin.